



The Regenesis Report



Portland Edition

Innovative Homeowner Association Management Strategies

Priceless

Regenesis means making new beginnings using eternal principles in innovative ways.

Regenesis believes that the goal of every homeowner association board should be to promote harmony by effective planning, communication and compassion.

The Regenesis Report provides resources and management tools for just that purpose. Every month, articles of common interest to homeowner associations nationwide are offered along with innovative strategies for addressing common problems.

Managing an HOA can be a lonely and frustrating task. Take heart. Help is on the way.



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Moth to a Flame

Moths give off “pheromones”, a scent that attracts mates from many miles away. Oh, that it were so easy to attract volunteers to the board. Just spritz some Eau de Volunteer in the air and *Nellie bar the door!* Okay, that won’t work on humans so what does it really take to attract good volunteers?

Here are a couple of suggestions:

Develop a communication system. A frequent complaint of members is not being kept informed. To draw out volunteers, it’s critical that they know what’s going on. Also, some owners develop a suspicious nature about board motives when kept in the dark and resist being involved. Let’em know what you’re up to early and often! Repeated pleas for help will have their effect. A newsletter and flyer distribution box (the kind used by real estate agents) is an inexpensive and convenient way to get the word out.

Give credit where credit is due. People love attention. Make sure that directors, committee members and homeowners are given formal recognition for their efforts by way of the meetings, the minutes and newsletters...every opportunity where there is an audience. Point out particular owners that show superior landscaping abilities. (They are obvious candidates for the Landscape Committee.) Award certificates of achievement at the annual homeowners meeting. Remember also that not all tasks have an end and some volunteers doing ongoing tasks tend to get overlooked.

Provide social opportunities. People tend to want to help those that they know personally. However, many are shy and don’t easily make friends. The association can promote several socials annually to facilitate the process. Consider a spring clean-up party, pool party or just plain potluck. It will help create a real “community”.

Develop a board job description. If your board is properly organized, meetings should last no more than one to two hours. Most HOA

boards can suffice with four quarterly meetings a year and a few emergency phone meetings. So, the board job should require less than ten hours a year. Make sure potential candidates know this.

Explain the advantage. While the board job is an unpaid position, directors have the opportunity to directly control the value and livability of their homes by enforcing appearance standards and reasonable rules. That’s a pretty big deal.

Assign real jobs to do. It’s been said, “A committee takes minutes and wastes hours.” There is nothing more frustrating than a job with no substance. There is real work to do at each homeowner association. Committee members should have clear “marching orders” detailing exactly what the objectives are, the time frame and the money available to help get the tasks done.

Get organized. Have meetings scheduled well in advance. Have a proper agenda, run the meeting in a businesslike way (save the cocktails until afterwards) and limit your meetings to two hours. Endless rambling meetings are a real turnoff to successful people (the kind you want as volunteers). Your meetings should be decision oriented so things get done.

Be an encourager. It is incumbent on the board president to take the lead in promoting volunteers. The successful leader motivates by persuasion and not authority. Remember, “A servant does not lower himself but elevates others”.

Since uncommon scents like pheromones don’t work, use common sense by making the volunteer position too attractive to resist...like a moth to a flame.☼

Ask the HOA Expert

Q Some of our members want to control the number or percentage of units which may be rented. Their concern is that having a relatively large number of rental units will change the character of the condominium and reduce property values. Can the HOA enact a rule or by-law restricting rentals?

A The HOA can enact rental restrictions but it should be carefully thought through. The ability to rent one's property is considered a basic right. And it's not just investors that rent their property. Someone that has lost their job, a down real estate market and military deployment are all valid reasons for needing to rent. Any rental restriction policy should provide for exceptions like these. Having a large percentage of rentals (percentage varies) can affect lender financing options and reduce resident owner appeal. Avoid having a policy that allows some to rent and others not. If a restriction against rentals is desirable, it should apply to one and all. To do otherwise grants a privilege to some not enjoyed by all and inevitable conflict will ensue. To achieve uniformity, allow, say, up to a one year grace period for those currently renting out their property to comply.

Finally, the board should not enact a rental restriction policy on its own. It should be done by an amendment of the governing documents approved by a appropriate majority of members. Once amended, the governing documents should be recorded to put all potential purchasers on notice of the restriction. *(There are several sample Rental Restriction policies in the Policy Samples section of www.Regensis.net available to Gold Subscribers.)*

Q Recently, I received a proxy attached to a meeting notice to vote on a governing document amendment. The notice stated that if the proxy was not returned, the board would vote on my behalf. Can the board do that?

A The board cannot take or use someone's voting right just because they don't respond to a proxy request. A proxy should be provided to every member well in advance of the meeting (whatever the governing documents require) to be completed, signed and returned. A member may designate whoever they choose (a neighbor, a family member...anybody) to represent them at the meeting. That person, of course, must be able to attend the meeting.

If the proxies aren't returned within several days of the meeting, the board needs to round them up by making calls, going door to door to pick them up or whatever it takes. At the meeting, if the required quorum is not represented by the proper number of members and their proxies, a legal meeting cannot be held.

This is how the proxy process works. Don't let the board ramrod any proposal through, especially a bylaw change, without proper member representation.

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Q We have problems with our landscape company providing the services it contracted to perform. Most of the board members want to keep them regardless. Does the president have a right to fire

the company or should the matter be put before the members for a vote?

A If the board majority wants to retain the landscape contractor, the president should not go contrary to the majority or go looking for the support of homeowners. If, however, it must be done, the board is authorized to do so.

But changing landscape contractors should not be done lightly. In fairness to the contractor, there are usually some identifiable problems that he should be made aware of in writing and given a reasonable opportunity to correct.

To track performance, appoint a Landscape Supervisor (could be a board member or another resident) to monitor the contractor's work. The contractor would then be instructed to leave a Job Slip detailing work performed on the Landscape Supervisor's door when the crew has finished. The Landscape Supervisor would then inspect the work and give thumbs up or down within 24 hours of completion and inform the contractor. If the contractor fails to correct the deficiencies, the board would have the ammunition it needs to terminate the contract.

Q I am a board member. If I have questions on interpreting our governing documents, should I have the right to talk to the HOA's attorney? Our president said "no".

A It's not good policy to allow individual board members to spin the attorney's meter. While your question(s) may be legitimate, your legal budget is likely very small. Discuss your question(s) with the whole board and if a majority agree to get the attorney's opinion, so be it. You also have the option to consult your own attorney for information and pay for it.

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Q Our annual election is coming up. Letters were sent out to the members by the management company asking for board candidates. Candidates are permitted no more than 100 words to state their platform. I talked to the management company and was told this is common practice.

A This restriction is neither normal nor sensible. If a candidate wants to write a full page, let him write it. Most will write little or nothing.

Q An amendment was circulated to change a section of the governing documents. The president feels this can remain out with the membership until enough approval votes are received. We need 75% for approval. I think that 60 days is a sufficient amount of time.

A Usually, bylaw amendments are discussed and voted upon at either the annual meeting or a special meeting called for that purpose. Mailing bylaw amendments to owners should only be done if many of them live far away. And if that is the case, 30 days is plenty to return the ballots. More time will not get greater compliance. When a deadline is set and the needed ballots aren't received, the board should keep making phone calls until the absents return the ballot.

Q How many days after a meeting should the minutes be available to board members? Currently, the minutes are sent to board members about five days prior to next meeting. When asked to approve the minutes of the previous meeting, it's hard to remember every thing that

went on.

A Passage of time will not improve the secretary's memory and critical details will likely be left out. Also, there are likely action items that need to get done before the next meeting and the DRAFT minutes will remind those tasked to do them. Unless there are extenuating circumstances, minutes marked "DRAFT" should be made available to both the board and membership within a week. (The DRAFT, of course, must be formally approved at the next board meeting).

Q More and more of our condos are being rented out. Can the board assess an additional "non-owner occupied" fee on top of the standard HOA dues?

A The governing documents define the formula of how HOA dues are distributed. This formula can typically only be changed by a vote of the owners which may be up to 100% approval required. So, the board has no authority to surcharge landlords. The board can, however, charge landlords for real costs incurred due to their tenants. These same charges should be levied to owners that incur them.

Q The board has decided to employ a management company to assist us. However, what happens if no one is willing to serve on the board? The current board members do not wish to serve forever but are concerned that there is no one to carry on the legacy.

A There's a saying "Don't worry about tomorrow because tomorrow will

worry about itself". Volunteers usually shy away because of fear of the unknown. The board job was not designed to be overly difficult or time consuming but it can be if you try to self manage, particularly if there are members who don't pay or won't obey rules. Getting qualified management which specializes in HOAs is a good move because it will reduce the amount of time the board needs to deal with things. Time involvement is a major obstacle to getting volunteers. Once management is hired, the typical board need only meet no more than four times a year. In between, let the manager run the show according to the approved budget, governing documents and direction from the president that is keeping with board authority. That level of organization will encourage volunteers who know they aren't being set up for another full time job. 🗳️

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Apples & Oranges

A question that occasionally comes up from the HOA membership is "Why are we paying more per month than ___ (fill in the blank) HOA? They only charge \$___/month."

While this seems like a reasonable question, this is what's called an "apples and oranges" issue. Comparing one HOA's monthly assessment to another's is meaningless without knowing what is actually being paid for. The person that poses this question to the board never seems to have the details, only the bottom line number.

What do you say? It's reasonable to respond that the answer requires reviewing the other HOA's actual budget. Ask them to get a copy and the board will consider it during the annual budget process.

There is a variety of factors that can account for differences in assessment levels including:

1. **Age of Property.** The older it is, the more expensive it is to maintain.
2. **Number and Type of Amenities.** A pool alone can increase the annual budget 20%.
3. **Reserve Funding.** Proper reserving requires setting aside 20-40% of the monthly assessment.

There are some things the board should scrutinize during the annual budget process. Past year's expenses should be detailed in a way that trends can be determined. Things like painting, electrical, plumbing, roofing, siding, deck and fencing repairs should be assigned unique categories rather than lumping them into "Repairs-General". Then, if a particular kind of repair cost is significantly higher than expected, an informed decision can be made on how to handle it next year. For example, if broken pipes have significantly increased due to deterioration in similar locations, it's time to consider doing major plumbing repair rather than waiting for the next flood.

Large service contracts like landscaping, management, pool maintenance and janitorial should be reviewed each year. Even if you are totally satisfied with the service received and have no intention of changing provider, it will demonstrate to the membership that the board is practicing due diligence and good stewardship. Also, if a particular service provider is maneuvering for a contract increase, a competitive proposal will work to the HOA's advantage in negotiating or verifying that your current provider is entirely justified in the increase. NOTE: Never

change major service providers without major cause. Working with an HOA and its members is not easy and the learning curve is very involved. The HOA is usually much better served correcting deficiencies with the current management rather than starting with a new company that is bound to have its set of own shortcomings.

Some other points to examine:

- Management usually charges extra for preparing unit sale information for sellers, buyers and lenders. Is the HOA paying for it? If so, why? It has nothing to do with managing the HOA. This cost should be passed on to the seller.
- That pool or spa may be used by only a hand full of residents and cost up to 20% of the annual budget. If an appropriate majority can legally approve shutting it down, major money could be saved.
- Has exterior lighting been converted to low watt/high lumen compact fluorescent bulbs which usually pay for themselves in a year?
- Is the board reviewing regular financial statements and approving all unbudgeted expenditures? Without regular oversight, it could be costing the HOA significant money.

Make sure you know what you are spending money for and why. Communicate clearly to the members how the budget was arrived at. What the members really want is reassurance that care has been taken. So, rather than a fruitless defense of apples and oranges, follow a fruitful budget process that communicates financial stewardship. 🗳️

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Umbrella Insurance Market

In July 2022, the insurance market has seen drastic changes in availability and pricing of umbrella coverage (AKA excess liability coverage). This coverage extends over the homeowner association's general liability limit and sometimes over directors and officers insurance. Recently, two of the largest umbrella coverage carriers exited the market. The departure of these carriers has led to a surplus in demand for the few remaining markets and created a capacity issue. Many carriers are only able to offer smaller limits with increased premiums.

This market shift is a result of an increased number of "nuclear" verdicts, an award of \$10 million or more. Industry professionals estimate these verdicts have increased by 150% in the last year. Insurance carriers have found these awards are not sustainable for the premium charged. In extreme cases, carriers either leave the market or increase the premium to justify the exposure.

Examples of nuclear verdicts from HOAs include:

1. Children fell through ice on a pond - \$31 million awarded.
2. New York stockbroker fell on snow and ice - \$50 million awarded.
3. Woman died in a carport after a tree fell during a windstorm - \$10 million awarded.
4. Person slipped and fell near a pool due to an employee improperly cleaning the area - \$15 million awarded.
5. Person killed during a drug deal in a unit - \$15 million awarded.

HOAs need to prepare for changes to their umbrella policy. In some cases, terms may not be offered at renewal. One way insurance agents see the market offsetting nuclear verdicts is by decreasing the liability limits a claimant can pursue. For example, when a \$1 million limit is offered, this could help reset what claimants seek.

Stay tuned for additional changes as the insurance market adjusts to this trend.

Sara Eanni - ABI Insurance 🗳️

Park Avenue

With car ownership and land costs on the rise and street width and parking on the decline, where the two meet, battles erupt. Parking committees post dayglo orange violation stickers on vehicles, roving tow trucks with instructions to hook and tow on sight and neighbors duking it out over parking spaces.

In an effort to resolve the problems, the board often enacts a parking policy. In considering such a policy, the board should first review the governing documents for guidelines. One issue to consider is common area parking (not to be confused with city street parking). As a rule, all residents have a right to use undesignated common area parking. Assigning parking spaces to a particular owner would be illegal since it is common area. However, controlling the type of vehicles that are allowed to park in the common area is within the board's authority.

To preserve parking availability, it's important to prohibit parking of stored, wrecked, inoperable and commercial vehicles. Restrictions can also apply to trailers, RVs, large trucks, boats and jet skis. As long as these vehicles can be garaged without displacing resident vehicles to common area parking, they can be permitted.

Restricting certain kind of commercial vehicles can get dicey if they are the primary mode of transportation for a resident, like a utility van or small truck. Exceptions might have to be made especially if your HOA is populated with blue collar workers.

Adequate guest parking is something that should be provided for in various strategic locations. They should be clearly marked so nearby residents don't commandeer them for their own. Of course, frequent guests should be instructed to park in the designated area or in the resident's driveway if available.

Fire Lanes are no car zones. You can aggressively tow without warning since violators obstruct emergency vehicles. Simply make sure the curbs are brightly

painted and lettered with NO PARKING - TOW WITHOUT WARNING. Then, all that's needed is a phone call to the local towing service.

Steer clear of parking permits if at all possible. Tracking permits are labor intensive, expensive and bound to clash with guest and rental cars. Rather than saddling the HOA with a cumbersome administrative system, let affected residents inform the board or manager when there is a parking abuse. Most of the time, there are only a few scofflaws that need to be dealt with. A tow or two generally solves the problem.

Parking is not a battle easily won. It's more like a fighting guerilla warfare with snipers popping up here and there. Stand your ground and be prepared for the long haul.

For a sample Parking Policy see www.Regensis.net Policy Samples. 🗺️

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Appearance Standards

One of the important proactive policies a homeowner association board can enact involves acceptable appearance standards. These are particularly important in condos and other common wall communities where uniform appearance underscores market value.

Many current residents formerly lived in detached housing where they were free to express themselves with flowers, pink flamingos and lawn jockeys. Some folks feel the further need for personalized fences, trellises, decks, light fixtures, security doors, security bars, awnings and other structural modifications. The ways owners are driven to "customize" the common area are limitless. The board can never be prepared for some of the more creative ways. However, it helps to establish an appearance philosophy

with guidelines. Here's a sample:

Community Appearance Philosophy: The HOA has responsibility to maintain the grounds and building exteriors. To accomplish that objective, guidelines have been established to standardize appearance to sustain home resale values plus maintenance efficiency and cost effectiveness. In the spirit of cooperation, we encourage all residents to follow these guidelines:

- Only Acme Brand Model 123 storm doors with bronze finish are permitted.
- Only Acme Brand Model 567 patio roofs with bronze finish are permitted on upper decks.
- Common area landscape is to be altered, supplemented and maintained only by the landscape contractor.
- Light fixtures and address numbers are standardized by brand, color and type and must remain so.
- Only barbeques and suitable outdoor furniture are permitted on decks.
- To avoid the "prison look", window security bars are not permitted.
- Restrict window signage displayed to "For Sale" or "For Rent"
- For safety reasons, no plant pots should be set on upper deck rails
- All unit structural modifications must be approved by the board.

Most of the conflicts boards experience are largely avoidable by establishing clear, reasonable policies and communicating them regularly to the owners. Consider enacting appearance standards for your community. 🗺️

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Bridge Over Troubled Water

Some think that belief in God is a crutch for the weak who cannot make it on their own. God is indeed a shield to protect us when we are too weak to face certain trials by ourselves, but he does not want us to remain weak. He strengthens, protects, and guides us in order to send us back into an evil world to fight for him. And then he continues to work with us because even the strongest person on earth is infinitely weaker than God and needs his help.

God promises to give us strength to meet challenges, but he doesn't promise to eliminate them. If he gave us no rough roads to walk, no mountains to climb, and no battles to fight, we would not grow. He does not leave us alone with our challenges. Instead, he stands beside us, teaches us, and strengthens us to face them.

When you're weary, feeling small,
When tears are in your eyes,
I will dry them all.
I'm on your side,

When times get rough
And friends just can't be found,
Like a bridge over troubled water
I will lay me down.
Like a bridge over troubled water
I will lay me down.

This is the day that the Lord has made.
Let us rejoice in it.

Excerpts from The Bible and Paul Simon 🎵

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Bob's Rules of Disorder

Homeowner association meetings are not always run like well oiled machines. Sometimes, they can get downright nasty. Here are some suggestions on how to bring yours to a grinding halt:

Obtaining the Floor

1. Member shall address the Chair by rising and yelling, "Listen you (insert description of the Chair's birth and intellectual capacity).
2. Person who shouts the loudest shall have the floor.
3. A louder person may interrupt the speaker at any time and take the floor.

Making Motions

1. Motions may be prefaced by an obscene gesture or speculative statement about the occupation of a director's ancestors.
2. No motions shall be made which include a rope, horse and tree or bird plumage and a petroleum byproduct unless such has been approved in the budget.
3. Following the statement of the motion, the member shall make facial gestures towards two or more members. The Chair shall then repeat the motion and issue a statement suggesting the member either engage in self procreation or immerse forthwith in an aqueous body.

Voting

1. Members shall be allocated votes in proportion to their body weight and strength.
2. A group whose combined weight is greater than the combined weight of any other group shall be defined as the "majority".
3. The majority rules, except when the Chair sides with the minority.
4. The decision of the Chair is final, regardless of the will of the majority.

Appealing the Chair's Decision

1. When any member objects to the Chair's decision, the Chair shall respond, "So sue me, you jerk."
2. If a member, in response, hurls a ripe garden product or other object, the Chair shall immediately declare the member to be out of order.

3. The Chair may, at his discretion, hurl an object of equal or greater weight and ripeness at the offending member. 🎵

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Davebarrisms

Experts agree that the best type of computer for your individual needs is one that comes on the market about two days after you actually purchase some other computer.

For me, the worst part of playing golf, by far, has always been hitting the ball.

Geographically, Ireland is a medium-sized rural island that is slowly but steadily being consumed by sheep.

Gravity is a contributing factor in nearly 73% of all accidents involving falling objects.

Have you noticed that whatever sport you're trying to learn, some earnest person is always telling you to keep your knees bent?

I argue very well. Ask any of my remaining friends. I can win an argument on any topic, against any opponent. People know this, and steer clear of me at parties. Often, as a sign of their great respect, they don't even invite me.

I believe that we parents must encourage our children to become educated, so they can get into a good college that we cannot afford.

I have always dressed according to certain Basic Guy Fashion Rules, including: Both of your socks should always be the same color, or they should at least both be fairly dark. 🎵

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